

for additional periods; provided, that no one option period exceeds five (5) years in duration and the total term of the contract, including any options exercised, does not exceed ten (10) years. The specific term of the base period and of any options periods shall be determined at the time of the authorization to compete or extend the contract. The term "option" as used in this subpart means a unilateral right in the contract by which the Government can extend the term of the contract. Accordingly, except as may be provided for through the inclusion of an option(s) in the contract to extend the term, any extension to continue the contract with the incumbent contractor beyond its term shall only occur when such extension can be justified under one of the statutory authorities identified in 48 CFR 6.302 and when authorized by the Head of the Agency.

(b) *Exercise of option.* As part of the review required by 48 CFR 17.605(b), the contracting officer shall assess whether competing the contract will produce a more advantageous offer than exercising the option. The incumbent contractor's past performance under the contract, the extent to which performance-based management contract provisions are present, or can be negotiated into, the contract, and the impact of a change in a contractor on the Department's discharge of its programs are considerations that shall be addressed in the contracting officer's decision that the exercise of the option is in the Government's best interest. The contracting officer's decision shall be approved by the Procurement Executive and the cognizant Assistant Secretary(s).

(c) *Conditional Authorization of Non-competitive Extension Made Pursuant to Authority Under CICA.* Authorization to extend a management and operating contract by the Head of the Agency shall be considered conditional upon the successful negotiation of the contract to be extended in accordance with the Department's negotiation objectives. The Head of the Contracting Activity shall advise the Procurement Executive no later than 6 months after receipt of the conditional authorization as to whether the Department's objectives will be met and, if not, the

contracting activity's plans for competing the requirement.

970.1706-2 Contract clause.

The contracting officer shall insert the clause at 48 CFR 52.217-9, Option to Extend the Term of the Contract, in all management and operating contracts when the inclusion of an option is appropriate.

970.1707 Work for others.

970.1707-1 Scope.

Pursuant to Section 33 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2053), DOE is authorized to make its facilities available to other Federal and non-Federal entities (sponsors) for the conduct of certain research and development and training activities. Pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535), or other applicable authority, other Federal entities may request DOE to conduct work. DOE has implemented these and other statutory authorities and requirements in its Work for Others Program. DOE's internal procedures governing the Work for Others Program are described in DOE Order 481.1C, WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK).

[69 FR 75003, Dec. 15, 2004]

970.1707-2 Purpose.

The purpose of DOE's Work for Others Program is to:

(a) Provide access for non-DOE entities to highly specialized or unique DOE facilities, services, or technical expertise, when private facilities are inadequate;

(b) Increase research and development interactions among DOE's management and operating contractors and industry in order to transfer DOE technologies to industry for further development or commercialization;

(c) Maintain facility core competencies;

(d) Enhance the science and technology capabilities at DOE facilities; and,

(e) Provide assistance to other Federal agencies and non-Federal entities in accomplishing goals that may otherwise be unattainable and to avoid the

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possible duplication of effort at Federal facilities.

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970.1707-3 Terms governing work for others.

(a) DOE's internal review and approval procedural requirements for individual work for others agreements are set forth in DOE Order 481.1C (as supplemented by DOE Manual 481.1-1A for agreements with non-Federal entities), which may be amended from time to time, and such other guidance as may be issued by DOE. Contracting officers must ensure that the contractor's procedures for its operations are consistent with DOE's procedural requirements.

(b) A contractor may perform work for other Federal or non-Federal sponsors only if:

(1) The contractor is authorized by contract clause to perform such work;

(2) The work is not directly funded by DOE appropriations and is fully reimbursed by the sponsor;

(3) The DOE Contracting Officer or authorized designee approves the work in advance; and,

(4) The work is performed in accordance with DOE policies, procedures and directives applicable to the contract.

(c) Contracting officers must ensure that the requesting Federal entity certifies that:

(1) The interagency agreement with DOE complies with the Economy Act of 1932 (31 U.S.C. 1535) and other applicable statutory authorities and 48 CFR 6.002, which prohibits the use of an Interagency Agreement for the purpose of avoiding the competition requirements of the Federal Acquisition Regulation; and,

(2) The work to be performed will not place the DOE contractor in direct competition with the domestic private sector.

[69 FR 75003, Dec. 15, 2004]

970.1707-4 Contract clause.

Insert the clause at 970.5217-1, Work for Others Program (Non-DOE Funded Work), in any contract that may involve work under the Work for Others Program, pursuant to 970.1707-3(b).

[69 FR 75003, Dec. 15, 2004]

970.2201-1-2

Subpart 970.19—Small, Small Disadvantaged and Women-Owned Small Business Concerns

970.1907 Subcontracting with Small Business, Small Disadvantaged Business and Woman-Owned Small Business Concerns.

970.1907-1 Subcontracting plan requirements.

Pursuant to the clause at 48 CFR 52.219-9, Small Business Subcontracting Plan, which is required for all management and operating contracts, each management and operating contract shall include a subcontracting plan which is effective for the term of the contract. Goals for the contract shall be negotiated annually when revised funding levels are determined. The plan should include provisions for revising the goals or any other sections of the plan. Such revisions shall be in writing, approved by the contracting officer, and shall be specifically made a material part of the contract.

Subpart 970.22—Application of Labor Policies

970.2200 Scope of subpart.

This subpart prescribes Department of Energy labor policies pertaining to the award and administration of management and operating contracts.

970.2201 Basic labor policies.

970.2201-1 Labor relations.

970.2201-1-1 General.

Contracting officers shall, in appropriate circumstances, follow the guidance in 48 CFR Subpart 22.1, as supplemented in this section, in the award and administration of management and operating contracts.

970.2201-1-2 Policies.

(a) The extent of Government ownership of the nation's energy plant and materials, and the overriding concerns of national defense and security, impose special conditions on personnel and labor relations in the energy program. Such special conditions include